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ABSTRACT

This booklet, one of 16 designed for use in an Open Universtiy course on the education of handicapped students in the United Kingdom, deals with the formation and implementation of relevant legislation and policy. The legislative foundations of the special education system in England and Wales, namely the Education Act 1944 and the Education (Handicapped Children) Act 1970, are reviewed. The evolution of policy regarding the largest category of handicapped pupils, moderately educationally subnormal (ESN(M)) students, is described. Factors involved in structuring the present system of special education are grouped under three categories: finance, people (including parents, teachers, and specialists), and knowledge (research and development and the politics of knowledge). Examples of the impact of social/economic factors on policies and practices are cited for the period of school expansion shortly after World War II and the controversy between psychologists and physicians regarding ascertainment is detailed. A synopsis of the current forces affecting special education touches upon such aspects as parents' increasing participation in the assessment of and provision for the special educational needs of their children and a continued shortage of resources. (CL)

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The Open University
Educational Studies: A Second Level Course
Special Needs in Education

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The Open University
Educational Studies: A Second Level Course
E241 Special Needs in Education

Unit 8
The powers that be

Prepared by Andrew Sutton for the Course Team

The Open University Press

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Note on reading

Set reading

The reading for this unit is to be found in:

SWANN, W. (ed.) (1981) *The Practice of Special Education*, Oxford, Basil Blackwell/ The Open University Press (the Reader). It is:

LUKES, J. R. (1981) 'Finance and policy-making in special education' (Reading 5.2).

Further reading

If you wish to read more on subjects discussed in this unit, I recommend the following:

MINISTRY OF EDUCATION (1946) *Special Educational Treatment*, London, HMSO (pamphlet No. 5).

TOMLINSON, S. (1981) *Educational Subnormality: a study in decision-making*, London, Routledge and Kegan Paul.

WEATHERLEY, R. A. (1979) *Reforming Special Education: policy implementation from state level to street level*, Cambridge, Mass., MIT Press.

Broadcast

Radio programme 4 is linked to this unit. Further details are given in the associated broadcast notes.

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1 *Introduction*

1.1 Over the next few years we expect a variety of trends and pressures, including new legislation, to contribute towards substantial changes in how special education is defined, meted out and organized. In addition to new ideas about special education, and changes in the numbers and needs of handicapped children, there will be continuing constraints upon all parts of the education system, indeed upon all parts of the economy, brought about by the general world economic crisis and the particular economic problems of this country. New ideas in special education, and the size of the particular slice of the economic cake that they might call upon, have to be worked out against this background. As the government's 1980 White Paper commented:

> The development of the education service will need to take place within the financial limits set by the public expenditure plans which the government has announced. Present arrangements for handicapped persons make relatively modest calls on local authority budgets. In the government's view, authorities will be able to give progressively fuller expression to the new approach outlined in this White Paper by the gradual redeployment of resources. The good practice already achieved by some authorities provides a substantial base on which to build. The secretaries of state will also be ready to advise authorities about meeting their proposed new responsibilities.
>
> (DES, 1980, paragraph 38)

1.2 Governments' plans, Acts and Regulations can look very rational, assured and reassuring. How they turn out in practice, however, may look very different indeed a few years later, and with the benefit of hindsight one has subsequently to look outside the immediate rhetoric in order to understand why things in fact turned out as they did. Perhaps even the assured and apparently authoritative statements of 'government' are not in fact as confident and benevolent as their drafters take such care that they should seem. After all they have to take into account that in any social issue there are not just 'important trends', but also strong *pressures* from a variety of quarters, not all in the same direction, and some altogether contradictory.

1.3 This unit deals with the law and how it is implemented. It will examine some of the forces that have acted upon policy and practice in special education in England and Wales in the years since the great Education Act 1944.

1.4 Specifically, it focusses on 'special education' as legally defined within the state education system of England and Wales, or more properly on 'special educational treatment'. Other units in the course adopt a wider brief in defining 'special education', and you should be on the alert (see Unit 1/2) for the confusions that can arise if clear distinctions are not made between legal and other definitions of what is 'special' in education.

1.5 Most of the forces that I shall describe are covert, and cannot by their very nature be measured. We cannot, therefore, weigh up precisely how such and such a combination of pressures led to this outcome rather than that in a particular instance. You must review the evidence presented and form your opinions according to your own experience of the world. In examining how aspects of special education have been formed and transformed under the Education Act 1944 you may discern factors at work that might well continue as powerful forces under new legislation. You should look out to see how these factors themselves have been the products of a changing social order, and as our society continues to change, look out also for the unexpected and the unplanned in determining the shape of special education.

1.6 In the next section, I describe the law that has governed special education since 1944, and the rights and duties that it placed on the various participants in the system. The remainder of the unit is devoted to the forces that shape and constrain the implementation of the law. Section 3 looks at how quickly the intentions underlying the 1944 Education Act became reinterpreted by those who had to implement it, and to do that I look at the identification of children called ESN. Section 4 takes some of the principal forces of policy-making in turn and assesses their role. I look at finance, children and their parents, teachers, professionals and research. In Section 5, I take two cases of the way

these forces and others have combined to determine the nature of our special education system. Finally Section 6 looks to the future to assess likely trends and possible new forces.

1.7 The UK comprises three distinct legal and social units—England and Wales, Scotland, and Northern Ireland—and each has its distinct history, legislation, institutions . . . and special education. This unit concentrates on England and Wales as a special study in some of the forces that go to shape the interpretation of the law in special education. Elsewhere in the course we describe the differences in the Scottish system, and in Unit 13 you will be considering Northern Ireland.

2 *Legislative foundations*

2.1 The system of special education in England and Wales (at the time of writing) was established by the Education Act 1944. The Act requires LEAs, in providing primary and secondary education, to have regard

> to the need for securing that provision is made for pupils who suffer from any disability of mind or body by providing, either in special schools or otherwise, special educational treatment, that is to say, education by special methods for persons suffering from that disability.
>
> (Education Act 1944, s.8(2)(*c*))

2.2 The Act was written at a particularly optimistic period of our history. The country was at war, and the 'citizen army' that we depended upon was looking forward to a far better and more just world after demobilization than its fathers had returned to after the First World War. The Second World War had brought a temporary sense of national unity and purpose. The Beveridge Report (1942) was going to bring about a British Revolution, its universalistic principles promising identical social services for *everybody* deprived of a normal decent life, whatever the underlying reason and whatever his or her place in society, and certainly without any enquiry into whether they were 'deserving'. Inequality and problems of living would not cease to exist, but they were to be regarded as affecting all levels of society, and were therefore to be met by services established on principles to serve rich and poor alike. The Education Act 1944 was framed and came into force against a background of the One-Nation idealism of the original welfare state. It then had to be first implemented against the grim background of post-war austerity, priorities and reconstruction.

The 1944 Act

Reading In the appendix at the back of this unit, Sections 33 and 34 of the Education Act 1944 are reproduced. Read through them carefully, not in terms of what you might think of special education as you may have known it yourself in the real world of the sixties, seventies, or eighties, but as an historical exercise.

Try to identify with the hopes, aspirations and expectations of the time. Look for the ways in which parents and officials had their respective responsibilities defined, to ensure that *all* pupils who required it should receive 'either in special schools or otherwise . . . education by special methods' as directed by Section 8 of the Act. See how one has to 'jump about' in the Act to define an individual's rights and duties.

2.3 The 1944 Act made the provision of 'special educational treatment' dependent upon a hierarchy of responsibilities that should ensure that all children requiring it received their legal entitlement. These responsibilities were shared by the Minister of Education, the LEA, professionals and the children's parents.

Minister of Education

2.4 The Minister of Education (in later years the Secretary of State for Education and Science) has the power to publish Regulations that define categories of handicap (s.33(1)). These categories are not, as is often erroneously stated, defined by the Act itself, but are at the minister's discretion. The categories of handicap in force in recent years have already been presented in Unit 1/2, Appendix 1. The minister also has power to make Regulations about the conditions to be fulfilled by special schools, and is empowered to withdraw approval of schools that do not fulfil these requirements (s.33(3)). Additionally, the minister may act to override any certificate issued to denote that an individual pupil requires special educational treatment (s.33(6)).

LEA

2.5 The LEA has to find out ('ascertain') which of the children in its area are in need of special educational treatment. The LEA's responsibilities in this respect begin early (s.34(1)), and include the duty to be responsive to parents' anxieties about their children (s.34(2)). In dealing with parents the LEA should ensure that written notice is given of its intention or decision (ss.34(3) and (4)). It is the LEA that decides whether a child requires special educational treatment, and having so decided it must then provide it (s.34(4)). There is no necessity, however, for the LEA to 'certify' the child as in need of special educational treatment, unless attendance at a special school is being insisted upon by the authority against the parents' wishes (s.34(5)). In such cases, if the minister exercises the power to cancel the certificate, then the LEA must comply and notify the parent accordingly (s.34(6)).

The professionals

2.6 These receive little specific mention in the Act, but what little is said is important in view of later developments. An (unspecified) officer of the local authority must notify the parents in writing if a medical examination is required as part of the authority's procedures to ascertain who needs special educational treatment (s.34(1)). The medical officer has a key role in this process, though only to offer the LEA 'advice' (s.34(1)), not to make the decision itself. This advice has to be communicated to the parent as well as to the LEA (s.34(5)), and if either party requires it then the medical officer is required to complete a certificate *for both*, confirming the nature and extent of the child's problem (s.34(5)). Note that at the time of the Act the medical officers referred to were employed in local government itself where they enjoyed considerable prestige and authority. After the National Health Service (Reorganization) Act 1972 they transferred to the new area health authorities, losing their *direct* influence upon local government affairs. It has remained the law, however, that only a medical officer can issue an LEA with a certificate to define the disabilities that contribute to a child's special educational needs. Yet in considering these needs the LEAs should also take the advice of teachers 'or other persons' who might shed light on the child's ability and aptitude (s.34(4)). The 'other persons' have increasingly included educational psychologists (not actually mentioned either in the Act itself or in any of the Regulations that have subsequently drawn their authority from it) and, increasingly in later years, social workers. This discretionary phrase has permitted an increasingly wider multi-disciplinary assessment. Note that the ways that LEAs should delegate or otherwise arrive at the actual decision, and the precise officer or officers involved, are not defined.

The children's parents

2.7 The children's parents have duties. They must present their child at the statutory medical examination if required (s.34(1)), and may also be forced to comply with the authority's decision to provide special educational treatment even if they do not themselves wish it. They also have certain rights. They can request a medical examination for their own child (s.34(2)), though the LEA may turn down that request if it considers it 'unreasonable'. The child's parents have the absolute right to be present during any medical examination arranged as part of the special educational procedures (s.34(5)). They also have the right to appeal to the minister against the LEA's decision (ss.34(2) and (3)) though no-one is specifically obliged to inform them of this right.

The children

2.8 The children themselves receive scant mention, other than as objects of concern, study and decision about their rights to education by special methods if considered appropriate. Note that pupils suffering 'from any disability of mind or body' were not unique in this respect in the 1944 Act.

The 1970 Act

2.9 The 1944 Act was not all-embracing. One small group of children was explicitly excluded from further consideration by the state education system. The Act required that LEAs, as well as finding out which children in their areas required special educational treatment, should also ascertain which ones were '. . . suffering from such a disability of mind of such a nature or to such an extent as to make them unsuitable for education at school' (s.57), and report them to the local health authority. Section 57 was repealed by the Education (Handicapped Children) Act 1970, when children previously deemed 'unsuitable for education at school' were brought under Section 34 of the Education Act 1944.

2.10 But no new Regulations were published by the secretary of state after the 1970 Act to provide a new category of special education for these new special education pupils. They were incorporated into the already existing ESN category. For a variety of reasons it was still found convenient in practice to distinguish between the children who had previously been considered 'unsuitable for education at school', and those who had formed the by now 'traditional' ESN population. The former were therefore informally dubbed ESN(S), the latter ESN(M), the 'severely' and 'moderately' educationally sub-normal respectively. *The distinction between the 'M' and the 'S' has no statutory force.*

Summary

2.11 The Education Act 1944 was framed at a particular point in our history on a universalistic basis to ensure that the state education system should provide for the special educational requirements of all children with a 'disability of mind or body', apart from a very small minority who were then considered unable to benefit from education at school. The law was intended to be flexible in its implementation. The special methods that were to comprise 'special educational treatment' could be provided either wholly or in part in substitution for normal schooling, and the categories of pupils eligible for it could be redefined at the discretion of the Minister of Education (later the Secretary of State for Education and Science). The small group of children excluded from the state education system by the 1944 Act were brought into the education system by a further Act 26 years later.

3 *Government views and local responses: the ESN category*

3.1 By far the largest category of handicapped pupils are the ESN(M), comprising almost half of 'ascertained' pupils in England and Wales (see Unit 1/2, Table 1). Bearing in mind that the ESN(M) are not typical, any more than is any other category, we shall focus here upon how they have fared in the government's interpretation of, and local authorities' implementation of, the law.

3.2 ESN pupils (remember the 'M' lay years in the future) were first defined as 'pupils who, by reason of limited ability or other conditions resulting in educational retardation, require some specialized form of education, wholly or partly in substitution for the education normally given in ordinary schools' (Handicapped Pupils and School Health Regulations, 1945). The Regulations currently in force, the Handicapped Pupils and

Special Schools Regulations (1959), as amended (1962), have maintained the same definition for this category (though the definitions for certain other categories have been slightly modified).

3.3 There has been no further law to define the ESN category. The Education Act 1944 and the Regulations that derive from it have not given detailed guidance on how one might decide which children should or should not be offered special educational treatment under this category. Advice to LEAs has been issued from time to time in the form of circulars and other informal publications. Such advice has no legal force and is intended for guidance only. Indications of the thinking of central government upon this matter can also be gleaned from reports, pamphlets and other minor publications.

The first guidelines

3.4 The first detailed guidance came in the explanatory pamphlet, *Special Educational Treatment*, published in 1946. This emphasized the breadth of the new category, ESN, as compared with the previous category of 'educable mental defective':

> This category includes not only the children who in the past were certifiable under Section 55 of the Education Act 1921, but also dull children who are retarded in their school work by reason of 'limited ability', and those who are backward in the basic subjects because of 'other conditions'.
>
> (Ministry of Education, 1946)

The pamphlet recognized that both 'limited ability' and 'other conditions' might be operating simultaneously in the same child. It gave the following examples of 'other conditions':

> late entry to school and subsequent irregular attendance caused by truancy or ill-health, by over-indulgence or irresponsibility on the part of the parents, or, especially with older girls, by undue pressure of home duties;
>
> frequent changes of school due to changes of address;
>
> disharmony between school and home;
>
> the keeping of late hours by children;
>
> psychological maladjustment which may absorb so much of a child's mental energy that he becomes unsuccessful at school.

The pamphlet drew particular attention to 'faults within the educational system'—such as large classes, bad buildings and lack of suitable teaching—as causes for educational retardation which might possibly entitle a child to special educational treatment as an ESN pupil. It suggested that special educational treatment should be given to children who were so retarded that their standard of work fell below that of a child 20 per cent younger.

3.5 The ministry estimated that the amount of special educational provision that would have to be made for this category would vary considerably, according to the nature of the LEA (see Table 1). In all, it was considered that about ten per cent of the school population would fall into this category. It was accepted that ESN children in outlying areas would have to be catered for wholly within normal schools and classes, with the class teacher having as much specialist help and additional materials as could be managed.

Table 1 Expected relative distribution of ESN provision, according to nature of locality (percentages).

Large urban areas	
Boarding schools	0.2
Day special schools	1.0
Normal schools	8.0–9.0
Small urban and rural areas	
Boarding schools	0.4
Normal schools	10.0

Source: Ministry of Education, 1946.

3.6 The 1946 pamphlet made it quite clear that measured intelligence was intended to be one, but only one, of the criteria for the selection of pupils. It suggested that children in the IQ range 55–75 were most appropriately educated in ESN schools, but the advice stressed that not *all* children 'whose retardation is felt to be mainly due to low intelligence' should be automatically sent to special schools. In the upper levels of the intelligence range defined as suitable for special schools, the decision to transfer to a special school or to provide special educational treatment in the normal school would depend upon such factors as the child's adjustment and the support that he or she got from home.

3.7 This pamphlet was in fact the most comprehensive account by central government of how it intended the 1944 Act to be implemented in LEA special educational practice. It is tempting to see it as both the first and last general expression of the principles enshrined in the Act. Almost at once its recommendations began to be eaten away, in the critical area of 'ascertainment'.

Ascertainment

3.8 You will recall from the appendix that Section 34(1) obliged LEAs to 'ascertain what children in their area require special educational treatment'; 'ascertain' presumably meant no more than to 'find out' or to 'discover'. The 1946 pamphlet, while acknowledging the sources of specialist advice that the authority *might* call upon, re-emphasized the principle that underlies Section 34: 'The final decision rests with the authority, subject to appeal to the minister'. The following year, however, the ministry issued a circular to LEAs which, while acknowledging that 'informal procedures' were possible, advised that children who received special educational treatment on this basis '. . . would not be ascertained within the meaning of Section 34 and they would not be registered as handicapped pupils, and any special arrangements for their education would not be technically known as "special educational treatment" ' (Ministry of Education, 1947).

3.9 The 1947 circular suggested that *all* advice to the LEA should be funnelled through the medical officer. Thus, children would only be 'ascertained' if they had been examined by a medical officer. It seems in retrospect that in the majority of cases the medical officer made the actual decision as well. From the late fifties onwards, however, there was a strong lead from the Ministry of Education (and subsequently from the DES) to lessen the importance to be placed upon the medical officer's decision, and the need for 'formal ascertainment'.

> It is for the authority to decide what special educational treatment, if any, is appropriate . . . In some areas, however, the advice of the medical officer appears to be accepted as sufficient and final and, where this is so, principal school medical officers are urged to make representations of their authorities on the desirability of having arrangements for consultations . . . instead of leaving the medical officers with responsibility for an educational matter which is really outside their sphere.
>
> (Ministry of Education, 1958)

> . . . there is no obligation in law to arrange a medical examination or to have a formal decision of the authority before arranging for admission to a special school, if the parent agrees to this . . . Nevertheless a medical examination will normally be desirable to ensure, for instance, that the child's retardation is not due to unsuspected physical or sensory defects.
>
> (Ministry of Education, 1961)

> Medicine has very little in the way of treatment to offer the majority of mentally handicapped children . . . How and where the child's education is best arranged, and whether he should be educated as a handicapped pupil, is also a matter for which an educationist should be principally responsible for advising the authority.
>
> (DES, 1972)

We shall see later what happened after the medical officers had been removed from local government by the National Health Service Reorganization Act 1973. In the meantime, however, note that two of these quotations came from the ministry's (later department's) own chief medical officer.

3.10 But did LEAs need this advice about 'informality'? Stanley Segal (1960) surveyed the 163 LEAs by means of a postal questionnaire and received replies from 83 of them. Of these, 93 per cent ascertained by means of the statutory examination, and in 73 per cent it was a medical officer who made the final decision. Twelve years later Paul Brindle (under my supervision) made enquiries of nine LEAs in the West Midlands. In only two of them could a child be admitted to an ESN school without being examined by a medical officer, and in five out of the nine the final decision (ESN placement or not) was in the medical officer's hands. In four out of the nine LEAs a certificate was issued automatically in the case of *all* pupils thought to be in need of special educational treatment in the ESN category. This is perhaps all the more surprising since all these authorities stated that they very rarely enforced children's attendance at ESN school if the parents did not wish it. If the finding in this area was typical of the country as a whole, then it would appear that nearly 30 years after the Act, and despite constant reminders by the Ministry of Education and the DES (even by the government's own chief medical officers), for many children and their families the process of 'ascertainment' provided as formal a process of certification as the Act had sought to replace. It is sometimes heard that the 1944 Act 'did away with certification'. Whereas it certainly abolished the old category of 'mental defective', it continued to provide for the issue of a certificate (s.34(5)). We may assume that the certificates were not in most cases written at the parents' request, so whose needs were fulfilled by this routine and costly procedure that endures in spite of the intentions underlying the Act?

3.11 For years, then, it remained unclear who were the gatekeepers to special education, and despite the law's clear statement that the final decision lay with the local authority (subject to appeal), in practice the actual decision very often lay with a medical officer following prescribed procedures. Perhaps for this reason, perhaps for others too, the central question of just who should receive special educational treatment as an ESN pupil was rarely tackled, and has remained unresolved.

3.12 Official advice about who should go to ESN school, with respect to IQ and 'other factors', at first endorsed the 1946 guidelines: social and emotional factors should be taken increasingly into account at the upper end of the suggested ability range, and only a very small number of children should be admitted to ESN school with intelligence test scores above 75 (Ministry of Education, 1961; DES, 1964). But by the end of the sixties there was a definite swing. The chief medical officer of the DES reminded LEAs just how wide the ESN category should be:

> Educationally subnormal pupils include both children who are educationally backward (i.e. their attainments are appreciably less than those of the average child of the same age), whether or not they are mentally retarded, and also children of average and above average ability who, for various reasons, are educationally retarded (i.e. their attainments are not commensurate with their abilities) . . .
>
> (DES, 1969)

And in referring to the 1946 guidelines about 'IQ ranges', it was altogether dismissive:

> . . . that was 23 years ago, but the interpretation that children whose IQ comes within this range ought to be in special school lingers on, and it is still not unusual to hear the remark that the child's IQ is too high or low to justify special school placement.
>
> (DES, 1969)

3.13 It is often thought that 'educational subnormality' is somehow just a modern or genteel usage to indicate 'mental subnormality'. It should be clear by now that the intention of the Education Act 1944, of the Regulations that stem from it, and of many of the official publications quoted in the preceding paragraphs, was that the category should cover precisely what it says, i.e. children who, for whatever reason, are failing *educationally*. It should also be clear that the original intention of the legislators was that the 'special methods' that such backward children might require should be available to

up to one-tenth of the school population, the great majority of them receiving this within their own schools. Only those who were both educationally *and* mentally retarded were initially considered candidates for special ESN schools. In reality, however, the special ESN schools turned out to take a much wider range. In 1958 the National Union of Teachers had reported on a survey that it had conducted by its members working in ESN schools. Though the data were only crudely analysed, they are of interest in revealing the very wide range of those who attended these schools. Returns were available from 144 schools in 29 counties and 57 boroughs. The range of intelligence test scores attributed to the children registered at these schools (presumably for the most part calculated at the time of their 'ascertainment') ran from 30 to 115. Fifty per cent of the schools had children with scores below 50 (below the 'lower limit' suggested by the 1946 pamphlet), 75 per cent had children with scores above 75 (the suggested 'upper limit'), and ten per cent had children with scores above 90. In 1962 the DES conducted a survey of its own (reported by Williams, 1964). It showed that 34 per cent of children attending ESN schools had IQs above 75. Williams's own survey, in a sample of Welsh ESN children, found 45 per cent with scores above 70. No wonder people may be confused about the meaning of 'ESN'.

3.14 I suggested earlier that an important feature of the 1944 Act was its flexibility, whereby local authorities and central government could respond to local and changing needs. Here we have looked at one category of special educational treatment—the largest—in respect to official ideas about who should be included in that category over the first 25 years or so of the Act's operation. One view of what happened is that after the first guidelines in the 1946 pamphlet, central government seemed to be flexible in allowing local government largely to follow its own pattern, under the guidance of whatever 'expertise' its own professionals could muster, and under the pressure of its own social and economic priorities. Look back at the requirements and safeguards of Sections 8, 33 and 34 of the Education Act 1944. To achieve the principles of education by special methods for all who required it, how do you feel central government should have exercised its powers? Does the law provide the minister (later secretary of state) with sufficient powers if the local expertise is not sufficient or the local priorities lie elsewhere? What are the rights of the parents in such circumstances? How far can the heritage of Sections 8, 33 and 34 of the Education Act 1944 be regarded as a developing *system*—in its general sense of 'a methodological or coordinated assemblage of parts', something that operates in a systematic fashion—or how far is it only a system in the sense of an interacting set of forces which work according to their own laws, and have unplanned and often unexpected results when they collide? In the rest of the unit, I shall examine these forces in more detail.

4 *Legal requirements and social forces*

4.1 The law on special education (like that in any other area) was a product of the social forces of the time. It was brought into being in the first place by one set of social forces that influenced government up to the time of its enactment, and for as long as it remains on the statute book its implementation is influenced by further social forces that shape (and maybe distort) how it is put into practice. The forces that bring a law into being may not be the same ones that affect how it is implemented. Even if the world is very much the same before and after a law is passed, those who make the law, and the pressure groups that influence them, may have a very different outlook from those who have to enforce or obey the law.

4.2 In the case of our own Education Act 1944, however, the picture is complicated by the fact that the world for most of the time that the Act has been in force is not the same as it was before the Act. The wartime optimism about the welfare state dissipated in post-war austerity, and was not necessarily reinstated in the years when we 'never had it so good'. Harold Wilson's 'white heat of the technological revolution' produced

plenty of educational 'experts', and our society's general views on what constituted human potential began to shift. New ideas about individual human values, of an ethical nature as much as involving new educational techniques, came to the forefront of discussion, with emphasis not only on how to provide special educational methods but also on our attitude to the handicapped in general and to the broader organization and intentions of their education.

4.3 Changes in ideas have certainly been important factors in the formulation and the interpretation of our law on special education. Changes since the 1944 Act in how we have interpreted the law on special education have generally been justified on the basis of improvements in our ideas about children's best interests. In considering new ideas, however, one should consider them not only at their face value, but also in terms of where they come from. Their origins may be as interesting as their content. Many of them, for example, are American, and though none the worse necessarily for that, they ought to be viewed in the light of their own social context before being transferred literally to our own. Some are very old: where did they come from, and to what purpose? Some have been taken or adapted from wider systems of thought: whatever the nature and origins of the ideas in special education, they do not exist in a vacuum; they came into existence to meet certain requirements, and they are worked out and developed in the context of others. To look for reasons behind ideas, even behind ideals, need not be cynical; it need not show a distrust or contempt of virtue, or seek to believe the worst of others. It may merely indicate a prudent caution in trying to understand the workings of our social world. One can rarely, if ever, be wholly certain about the precise reasons why certain interpretations are placed upon general legal requirements. Offered here are a number of factors that have been important in structuring our present system of special education. They are grouped under 'Finance', 'People' and 'Knowledge'.

Finance

4.4 It is as well to remember that 'special educational treatment' exists against a much wider economic framework, the most immediate aspects of which comprise its place in the system of payment and control within the education system as a whole. The provision of special education is not a question solely of finding out which children have needs, what those needs might be, and then providing them, in the spirit of Sections 33 and 34 of the Education Act 1944. It is also a question of the resources that can be marshalled to this task, and the decision-making structure within which this occurs.

Reading Now read 'Finance and policy-making in special education' by J. R. Lukes in the Reader (Reading 5.2). Lukes deals with a number of distinct but related issues; she:

(a) describes the way in which the policies of LEAs are controlled by central government's ways of allocating resources to them;

(b) describes the 1981 Special Education Bill and analyses its likely effects;

(c) discusses how much special education costs, and why it is expensive;

(d) compares different LEAs' spending on special education; and, finally,

(e) looks at the impact of all these factors on integration policies.

4.5 Lukes's reading gives an unconventional view of the proposals for change and reform that have been set out particularly in the Warnock Report (DES, 1978). If you found her account unfamiliar, or even jarring, then it may be for two rather different reasons. First, you might have found it an unfamiliar experience to deal with special education not at the individual or pedagogic level, but at the social and political level. Second, you may have found her somewhat harsh interpretation of the intentions of the policy-makers an unfamiliar attitude in this field. Do you agree with her that current policy is determined almost solely by the need to cut expenditure? If so, what should be the response of those people whose job it is to provide the service?

Children

4.6 The people most centrally involved in special education are the children themselves. Pu[illegible]l power, however, has done little to shape our education system, whatever the feelings and aspirations of the children themselves. The absence of children's contributions is very significant, for it means that those very citizens who are *most* involved and affected by special education are *least* involved in deciding its form and nature. In part, this is a problem of *all* children in our society in respect to their rights, and there are no easy solutions (King, 1981), but it is compounded when those children are also *handicapped*. Their 'needs' are refracted through the views of the various adults whose lives are caught up with them, and it is to these adults that we have to look for political effects.

Parents

4.7 The adults most intimately involved with the children are the children's own parents. Indeed, for many kinds of special provision for the effects of a child's handicap, the basic unit of intervention and concern may have to be regarded as the whole family, rather than the individuals who comprise it. In the face of the massive and mysterious panoply of local and central government, the child's parents, who have to represent this family to outside authority, will probably be as helpless and powerless as are most individuals whose lives are in part in the hands of bureaucracies. This will of course vary according to the parents' social and educational backgrounds. It helps enormously if you know somebody, or if you can assert your rights or ask probing questions, and it is a terrible disadvantage to be inarticulate, vulnerable or overawed.

4.8 Parents' conventional role in the special education system is as clients. But they have an additional role to play—if they wish to and know how. They may act politically. For far longer than the Education Act 1944 has been in force, parents have banded together to advance their demands to society as a whole by whatever means open to them. National voluntary societies have a long history of action in this country, from the present day back to the earliest roots of special education, of defining need and making provision for it *in advance of the state education system*. Perhaps because these societies are responsible to people who are directly and personally concerned with the needs of handicapped children (and therefore *know* their needs in a way that no paid professional can—unless also a parent of a handicapped child), their concern over the needs of the children often includes wider and longer-term needs.

4.9 Inevitably, of course, membership of such societies, and the ability to organize support and to generate sympathy, is socially skewed, i.e. it is mainly more advantaged parents who have contributed most pressure. Whatever the minor variations due to social class, most of the categories of special education defined by the Regulations include children from advantaged homes. This can be seen in the numbers of organizations specifically concerned with the visually impaired, the hearing impaired and the mildly subnormal, available in one local authority in Birmingham in the late seventies, shown in Table 2. They are taken from a locally compiled handbook (Hier and Sutton, 1978) outlining services available to the handicapped and their families.

Table 2 Voluntary organizations in Birmingham for the visually impaired, hearing impaired, deaf-blind and ESN(M).

	Visually impaired	Hearing impaired	Deaf-blind	ESN(M)
Number of local organizations	6	4	2	—
Number of national organizations	7	3	—	1
Total	13	7	2	1

Source: Hier and Sutton, 1978.

4.10 You might now go back to Table 3 in Tony Booth's article, 'Demystifying integration', in the Reader (Reading 5.1) to see the relative prevalences of these categories of special education. Compare the numbers of ESN(M) pupils with the total number of

hearing impaired and visually handicapped combined. There is a notable disparity between the numbers of voluntary agencies concerned with people with sensory handicaps and those concerned with people who are termed ESN(M). In part, of course, this reflects certain objective differences between the long-term outcomes of sensory handicap, and being 'ESN(M)'. But there are also wider social factors involved in this disparity, and in turn the disparity may have different social and political effects.

4.11 Hier and Sutton (1978) also list seven local voluntary organizations for the families of *severely* subnormal children, and eight national organizations for the same group. Again, the disparity with the ESN(M) will have a number of different reasons, and its own social effects.

Activity 1 Local resource handbooks are unlikely to list every organization in their area, and they soon get out of date. Does *your* local authority have such a list? Even if it doesn't, a couple of phone calls to your LEA and to the social services department might elicit what is available (at least you may fare as well as many parents of handicapped children do, making similar pleas for information). For the categories of handicap that interest you, what organizations are available? How many children are there locally being educated under those categories?

4.12 If you do this, you may have some glancing insight into the relative political back-up in the form of pressure groups that is available to the parents of different kinds of handicapped children in your locality (and, remember, even the most powerful are in a weak position). You may also have some idea of how hard it can be for a parent to get in touch with relevant groups. There may be a disparity between the amount of *local* voluntary provision made, and what is available nationally. If so, what sort of parents will be best able to seek out the distant national agencies? Again, what are the likely effects of this for different subgroups, both for the individual family looking for a reference group and for the pressures that might be directed to better services locally? And where are most 'national' bodies located? In most cases, in London. Again, what are the different effects of this, both for families living in the South-East and families in 'the provinces', in terms of the possible relative effect of these groups' provisions and lobbying on the services provided in different parts of the county. It is not just the state that provides something less than an equitable system.

Teachers

4.13 Next in numbers to parents, among the adults directly concerned, come the teachers. Their interest is rather more transient, though they do spend a large part of the term-time working day with their charges, and many teachers and pupils develop close and genuine personal relationships.

4.14 It should be remembered, however, that the teachers in their schools are not just mentors and pedagogues. They are professionals pursuing their careers as well. They may at times feel required to speak and act 'professionally', taking part in what Bernard Shaw called 'a conspiracy against the laity' (i.e. against parents, councillors, the ratepayers, etc.). They may also be trade-unionists, worried about parities, differentials, inflation, unpaid backpay, rival unions in the same profession, and there will be times when both individually and corporately they act accordingly. And, perhaps above all, they are just plain folk, workers who have to get through a sometimes tiring, unrewarding and altogether frustrating day. Even if this day is rather a short one by most adults' standards, there are times when, like the rest of us, they may find it all just too bloody and like the rest of us they may feel entitled to speak out and act in some way in response to it.

4.15 Those of us who do not teach in special education should reflect that our occasional grudging admiration for those that do is not grounds for expecting them to renounce all the normal behaviours, intentions and responses that contribute to what happens in our own working lives. Just as the workforce in any industry or organization *responds* to the conditions and ethos of its workplace, it also makes important contributions of its own to *shaping* the nature of its own environment. So too the teachers in special education provide a powerful political force in shaping what goes on within it.

4.16 Any decision regarding special education has to take account of this. When the local education authorities and their officers consider restructuring provisions in their areas (as the ideas represented by the Warnock Report, and financial considerations, increasingly encourage them to do), they are most consciously aware of the teachers' and head teachers' 'professional associations' (i.e. trade unions) and what they will swallow. At a more mundane level, when an educational psychologist is considering whether to dub a child ESN(M), one vital consideration is what the teachers in the respective schools, normal and special, will accept—and what they will not.

4.17 Teachers, like parents, exert influences upon special education as individuals and in groups. But though the teachers are fewer, they are part of the state's hierarchy of paid provision, and can claim a stronger voice in affairs. A quantitative index of this may be taken from the Warnock Report (DES, 1978). The Warnock Committee comprised 27 members. Of these, six were teachers or associated with teachers' unions, only one was a parent of handicapped children. Over 300 organizations and individuals responded to the committee's invitation to submit evidence. Of the organizations, at least 55 were clearly schools or teachers' organizations, and at least 70 were from voluntary organizations open or accessible to parents. Of the individuals who responded, 19 were teachers, and 22 responses came from the parents of handicapped children (there was a slight overlap between these two groups). A simple 'head-count' such as this is a very crude index indeed. It suggests, as far as it goes, that teachers and their organizations provided about as much evidence as did the far more numerous (and more personally concerned) parents, and had a much higher influence when that evidence came to be analysed and weighed.

4.18 The teachers' organizations (and the individual teachers) mentioned in the previous paragraph were by no means all of teachers in special education. In considering the influence upon special educational provision of the teaching profession, it is important to recognize that teachers in normal schools play an essential part. The very wording of the 1944 Act (Section 8, quoted in paragraph 2.1 of this unit) strongly implies that involvement. The specification of the need for *special* educational treatment (whether wholly or in part in substitution for normal schooling) suggests that normal schooling in some way falls short of what is needed.

4.19 The circumstances in which the normal school has to operate may at times pose problems that are altogether insoluble within the normal school system as it stands. Teachers are then faced with a choice. Either they can make a radical reappraisal of their own system, or they can look to creating alternative systems to take the pressure off. Their own circumstances are often locked into wider situations over which they have little or no control, such as the distribution of financial resources as described in Lukes's article. If the teachers do not choose to make a radical reappraisal, then their choice may well fit in with the needs of politicians and administrators who control the wider system, and opting for the creation of an alternative system (suitably dressed up in 'educational' terms) may be a mutually convenient solution. Teachers are, after all, the essence of the educational system. Any assessment of an individual child's educational 'needs' *must* include (either implicitly or explicitly) consideration of what teachers have done, are doing or might do. Similarly, the 'needs' of any group of children can only be fully discussed if consideration is also given to the teachers actually or potentially involved with them.

Specialists and hierarchs

4.20 A far smaller group of adults involved with children in special education are the various specialists. A few years ago these would have certainly included a school medical officer, though not necessarily an educational psychologist. Nowadays the educational psychologist is likely to be involved as a matter of routine. Usually both the medical officer and the psychologist will have been involved at the child's 'ascertainment' (or more recently 'discovery'). Both too—depending upon local practice, the particular nature of the child's handicap and whether or not the child or the family provides a serious nuisance to the school—may be involved over the course of the child's subsequent special education. In the case of sensory, physical or severe mental handicap, other medical specialists and paramedical personnel might be involved and, with certain problems, social workers and psychiatrists.

4.21 These professionals are members of the multi-disciplinary team, and comprise a network of services intended to provide both direct personal services to the child and families, along with consultation on specific problems with the staff more closely involved in the day-to-day provision of care or education (teachers, care staff, etc.). They generally have very little personal contact with the children or the parents involved, who remain in most instances 'cases' rather than people. The professionals' knowledge of the child or the parent is therefore different in kind from that of, say, a teacher, a nurse or a residential child care officer. Though the latter are also part of the multi-disciplinary team, there often still arises a feeling that the kind of knowledge of the child possessed by the outsider—the psychologist or the medical officer—is of a particularly valuable, 'specialist' nature.

4.22 There is another group of professionals involved—the local authority advisors and administrators. Their status within the local authority is even higher (perhaps corresponding to their lack of direct contact with the children). Thirteen of the 27 members of the Warnock Committee were specialists or advisors or administrators (compare paragraph 4.17).

4.23 I have suggested, then, that certain groups and subgroups involved with special education have a say in how it is run that depends neither upon their numbers, nor upon their personal involvement with the everyday reality of living with handicapped children. It depends in part (perhaps a large part) upon their relative power within the system. In other words, it is a political matter.

Knowledge

4.24 In paragraph 4.3, I warned against a too-ready acceptance of the notion that the special education system is founded directly upon the ideas often advanced to support this policy or that practice. We must therefore examine the use or, possibly, abuse of scientific knowledge in a system that makes great explicit claim to professional expertise, and frequently invokes 'research' as one basis of this expertise. In doing so, we are in part turning things on their head, and asking not merely what effects do the findings of research have upon special educational practice, but also how far do the politics of that practice determine the ways that research is generated, and most of all how its results are put to use. If indeed 'knowledge is power', is it actual knowledge that is being used, or the facade of knowledge?

Research and development

4.25 Research and development (R & D) is not a cheap commodity. Even a modest research project—involving only one or two researchers and the minimum of back-up staff, 'borrowing' accommodation and other facilities, and extending over only two or three years—will cost £50,000 to £100,000 at 1981 prices. Where will the money come from? Research in this area is funded in part by charitable bodies, and in part by the state via agencies such as the Social Science Research Council.

4.26 Now R & D is not expensive *in relative terms*, relative that is to maintaining the special educational provision in even a small LEA for a year. When one begins to question the expenditure of resources (human as well as financial) that go into, say, remedial education throughout the country over the course of the year, and then one asks what is the known effectiveness of such provision—what is known about which methods work and which do not, what are the wider demands of successful remedial education within a large secondary school—then one begins to realize the very tiny amount, in relative terms, that is spent on testing out ideas about provision in any accountable way, as opposed to the vast resources expended on quite untested approaches to children's education.

The application of knowledge

4.27 R & D in special education, or at least a programme of R & D that would match the resources devoted to our present system of provision, would require, among other things, research programmes that followed children at the very least through the years

of compulsory schooling, to compare the outcomes of different kinds of provision and teaching methods. It would cost a lot of money, and its findings might be inconvenient to many established practices and reputations. But would it be worth it? Is our attitude to the limited knowledge that we already have sufficiently honest and productive to justify the expenditure of the time and resources required to create yet more knowledge? We will take one recent example, the issue of 'early experience' and its effects on child development.

4.28 Clarke and Clarke (1976) edited a major review of the importance of early childhood experience, and concluded with the following measured but clear statement of the present state of the art in the Western world.

> What then are the main implications? First and foremost, *the whole of development is important, not merely the early years. There is as yet no indication that a given stage is clearly more formative than others; in the long term all may be important.* We are now entering the era when empirical findings, based upon the newer and more powerful methodologies of the behavioural sciences, have the possibility of dictating appropriate policies. Thus our relative dependence upon fashions in childrearing may give way to a more careful empirical analysis of the needs of individual children, to the manner in which these needs can be satisfied, to the methods by which the disadvantaged may best be helped, and indeed to diminishing the pathology of society. The widespread use of oversimple notions about children, of inadequate social action dependent on such notions, and the unwitting employment of self-fulfilling prophecies, need to give way to imaginative, yet independently and austerely evaluated experiments which depend only on the assumption that *what one does for a child at any age, provided it is maintained, plays a part in shaping his development within the limits imposed by genetic and constitutional factors.*
>
> (Clarke and Clarke, 1976, pp. 272–3; my italics)

The italicized sentences are the distillation of a vast amount of practical and empirical research, and a very careful analysis of the scientific arguments involved. It might seem, for many, a little disappointing of the authors to conclude then that 'if there is a critical period, it is difficult to know how to define it' (p. 268).

4.29 Note that there are two kinds of knowledge represented in the passage. The italicized sentences refer to psychological knowledge, resulting from a careful consideration of empirical psychological research. The non-italicized sentences refer to something different, a statement of a social kind about the use to which such knowledge *could* be put.

4.30 The book from which the above quotation was taken was published in 1976. It was widely reviewed in the professional journals and, for a book of this nature, received widespread publicity in the press. The Warnock Committee was already sitting, and in its own published report two years later it opened a chapter devoted to children under five with one of the most explicit statements apparently based on psychological knowledge that it made anywhere in its report.

> The period between birth and four years of age is generally accepted to be that of the fastest intellectual development, while the years between one and three to four normally see a rapid development in language. Thereafter the rate of intellectual development progressively diminishes, and the learning of language becomes increasingly difficult. Education during the first five years of life is thus of crucial importance.
>
> It is also widely held that there are periods, notably the very early stages in development, when a child is particularly sensitive to experience and quick to learn from it [ ].
>
> (DES, 1978, paragraphs 5.1 and 5.2)

4.31 But if the Warnock Report's psychology was not empirical, perhaps its sociology was? Whatever might be shown by published research, 'it is widely held . . .' to the contrary. The government was apparently advised to go along with popular ideas rather than with the findings of research. This may of course have been a deliberate choice on the part of its advisers (if so, then to achieve what ends?). Or it may have simply been the result of ignorance (and if so, how come the government had such poor advice?).

4.32 It may of course have been that Clarke and Clarke were wrong, and that the members of the Warnock Committee knew it. But given the weight of the evidence assembled by Clarke and Clarke, and the strength of their arguments, perhaps there should have been some acknowledgement that the idea of a critical period in early life was not without its problems. One is tempted to question the value of doing research at all, if its findings are so readily dispatched in favour of what is 'widely held' or 'widely recognized'. One has to ask, widely held by whom? This is not, of course, to question or deny the value of pre-school education in its own right, but its use as an arguing point which is not necessarily justified by the present state of knowledge.

4.33 I cautioned in paragraph 4.3 that one should consider very carefully the wider implications of ideas, especially when they constitute part of larger belief-systems, the fuller ramifications of which are not always made immediately apparent. In the case of early education and the formative years, ideas that were presumably advanced by well-intentioned people on the Warnock Committee as somehow 'progressive', may be part of a wider ideology which narrows the options in children's development very early on in their lives. It is accompanied by the real risk of a pessimism and inflexibility within the education system no less rigid for being 'environmentalist' than the old pessimism based upon heredity.

The politics of knowledge

4.34 Research is not always put aside. The relationship between growing knowledge and changes in practice is not, however, always simple. When you meet knowledge and research that is put aside in favour of more convenient or fashionable ideas, you must of course look in part to factors within the particular knowledge or research itself to explain what has happened. But you must also look to *the sociology and politics of that knowledge or research.* Ask questions about who demanded the research in the first place, and who found the knowledge generated from it advantageous, or disadvantageous. What would such knowledge cost if put into practice, not only in terms of financial cost, but in terms too of the cost to already hallowed practices, reputations and systems?

4.35 This brief discussion of research has inevitably focussed upon special education. But the issue of what takes supremacy in legislation—research or politics—is not peculiar to special education, or to the education system. Children's road accidents, for example, could probably be markedly cut back by severe restrictions upon motorists in residential areas, particularly if the terms of car insurance were altered—at least that is the indication from research. Most people would wholeheartedly agree about the need to reduce the death and injury caused to young children on the roads. But most people are also motorists. They have to choose and, when they do, their choice presumably involves consideration on the one hand of the relatively slight risk of *their own* child's being hurt (if indeed they have children at all), and on the other the certain personal inconvenience of, say, a 10 mph speed limit, massive parking restrictions in suburban streets, and a punitive insurance policy towards anyone who as much as brushed against a child with a car.

4.36 The politics of knowledge in special education are no more than that—politics. There are always conflicts of interest, not only between groups in society but even within individual citizens themselves. We are well aware of them in everyday living. We also have to look out for the political, the conflict of interests and the varying 'muscle' of different interests in different circumstances, that *must* be considered by any government in framing its policy and law on special education (as on anything else), and that will *inevitably* enter into the implementation of special education policies and laws.

5 *Practice: two extended examples*

5.1 You may feel it unfair to compare the relationship between policy and knowledge in special education to the politics that operate in areas such as road traffic policy. For in the case of accidents to children, it is largely *private* citizens whose rights and desires are involved. On the other hand, the citizens with the most influence upon how knowledge is generated and used in special education are mainly professional people—public servants and members of what many would regard as the 'caring professions'. If comparisons are to be made, therefore, the most immediate are with the professional practice of other caring professionals, to see how *they* manage their affairs to the relative benefit of both themselves and their clients.

5.2 Compare special educators with social workers, who put into practice ideals expressed by the Children and Young Persons Act 1969. Both sets of practitioners are expected to provide humane expertise, brought to bear by professional structures in which the 'needs of the child' are paramount. For the outsider to question the validity or relevance of expertise, or to look for other interests that might be overriding the child's best needs, is not to impugn the honour or goodwill of those concerned in either system, but rather to accept the possibility that the demands of the workplace may create powerful diversionary forces. These forces can be so closely intertwined with statements about children's needs, that it becomes next to impossible to disentangle the chicken-and-the-egg of causes behind the resultant practice.

5.3 The rest of Section 5 gives two examples of how powerful economic and social forces might underlie practices and policies apparently founded on children's needs. These are the 'country house' period of special school expansion shortly after the Second World War, and the long, hard, sometimes bitter struggle between the doctors and the educationalists—particularly educational psychologists—for power over ascertainment.

The country house period

5.4 One powerful force is the economic: what is cheapest, or what fits in best with the general economic situation of the country at the time? An interesting and largely forgotten example is the foundation of many of the residential schools which are an important component of our present system of special education. These residential special schools now exist and, consequently, when professionals are considering a special placement for a child, they usually consider whether the placement should be day or residential. Similarly, certain special educators look to careers within residential education, residential expertise of a particular kind has been developed, and criteria for boarding rather than day placement have been evolved.

5.5 It had been intended from the outset (Ministry of Education, 1946) that boarding education would have a place in our national system of special education, and certain guidelines were laid down as to who should need such education and the relative numbers of places to be provided. In the years that followed, however, shifting market forces played a guiding role, as the ministry itself subsequently acknowledged:

> The rapid expansion of the special school system at a time when there were many other demands on the educational building programme was possible only by the widespread use of adapted premises, most of which had not been designed for school purposes. At the beginning of 1946 the ministry issued a circular calling attention to the serious shortage of boarding school provision for educationally subnormal and maladjusted children, and indicating that the need was so pressing that every expedient for buying new boarding schools should be considered. The possibility of buying and adapting large houses was mentioned as one way of tackling the problem. This suggestion was readily adopted and formed the basis of the expansion which followed. The response by authorities was undoubtedly due to a general consciousness of the need for

more boarding special schools and of the difficulties caused by long waiting lists of children who could not be educated satisfactorily and who were becoming a grave social problem . . .

The policy of adapting large houses was a timely one in the years immediately after the war, when a relatively large number of properties, many of which had been requisitioned during the war, were for sale. Although some proved to be less suitable than had at first been hoped, either because they needed costly repairs or extensive adaptation or were expensive to run or difficult to staff, on the whole the policy worked well and the great majority of the schools provided in this way have been satisfactory as schools and attractive as places to live in. Most of the 182 boarding schools opened since the war are in adapted houses . . .

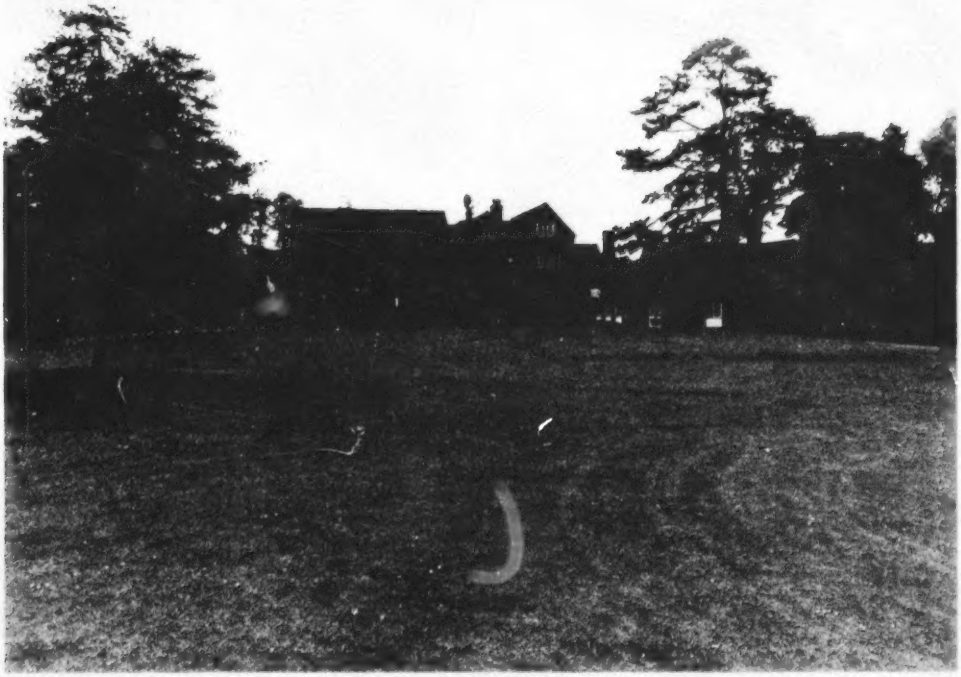
By 1952, however, it was becoming clear that this policy had spent its initial force, and that a change was necessary. The main emphasis during the 'country house' period had necessarily been on boarding rather than on day schools, and the location of the schools had been determined by the availability of buildings. The schools had therefore proved more suitable for those handicaps which, owing to their relative infrequency, were dealt with on a regional or national basis. As a result, while much had been done and was being done to deal with the deficiency of boarding school places for the partially sighted, deaf and partially deaf, severely crippled and epileptic, comparatively little had been done to tackle the biggest deficiency of all—that of places for the educationally subnormal, particularly in day schools. Moreover, the supply of suitable houses was becoming exhausted; and, with the improvements in school planning and building which were being evolved in the ordinary primary and secondary field and which could be applied to special schools, it was becoming more economical and satisfactory to build new schools than to adapt existing buildings.

The 1953 building programme showed this change. Previously, programmes had consisted almost exclusively of proposals for the adaptation of country houses and other suitable buildings, but the 1953 programme included several proposals for new day special schools for educationally subnormal pupils in buildings designed for the purpose . . .

(Ministry of Education, 1956, paragraphs 14–17)

5.6 It is interesting to speculate about the shape of our present system of residential special school provision if there had *not* been a glut of perhaps otherwise unsaleable country houses derequisitioned by the armed services at the end of the Second World War. To us in this country, the typical residential special school is a gracious building which has obviously seen better days, set in spacious grounds, and showing a hotch-potch of modern improvements carried out over the last 30 years. There can be readily advanced good 'educational' arguments for its location, for the number of pupils it caters for and for its place in an overall network of services. But it seems highly unlikely that these reasons would have been good enough to ensure that education authorities (and voluntary bodies) acquired such properties had they not been so readily available. And if they had not, then presumably our residential special school provision would have developed in some other way (for example, with purpose-built schools, taking a higher number of pupils and quite differently situated), with presumably quite different educational arguments advanced to justify their establishment!

5.7 Consider the passage from the Ministry of Education (1956) again. Note how neatly the availability of country houses coincided with 'educational' needs (initially, the need for boarding places because of 'social problems' caused by long waiting lists of ESN and maladjusted children 'who could not be educated satisfactorily'; later, the shortfall of day ESN places). But was the provision made as part of an educational master plan, or were other factors at work? Why was one priority responded to straight after the war, and another in 1953? Were there other social changes at work in the New Elizabethan Age (such as changes in political direction and in the activities of the building industry), as well as the drying-up of the supply of country houses, to switch attention from adapting old country houses as residential schools to building brand-new purpose-built day schools? It may be, of course, that the 'social problems' which had so urgently demanded residential schools were immediate results of the traumas of the war years, though if this were the case, then presumably the need for so many boarding places would have subsequently declined.



A legacy of the past: the Old Manor House in Wendover, Buckinghamshire, was built in the 1880s. It became a residential special school for ESN (M) *boys in 1948 at the height of the 'country house' period. In 1975 it became an annexe to another residential* ESN(M) *school in nearby Aylesbury.*

Activity 2 Table 3 shows the increase in special school places over the course of the country house period. Did this period have a substantial effect upon the structure of special education in its early days?

Check back to paragraph 1.17 of Unit 1/2 for the number of special education pupils in maintained and non-maintained boarding schools some 20 years later. When the 'social problems' resultant from the traumas of the war years had worked their way out of the system, was there a substantial decrease in the numbers of residential school placements?

Table 3 Increase in special educational provision, 1944–55.

	Net additional special school places, 1944–55		
	Day	Residential	Total
ESN	5 593	5 393	10 986
Maladjusted	168	1 005	1 173
Physically handicapped and delicate	156	2 146	2 302
All others	21	1 677	1 698
Total	5 938	10 221	16 159

Source: Ministry of Education, 1956, paragraph 9.

Comment It could be argued that the country house period in the early years after the 1944 Act was important in forming a certain image for special education—at least in certain categories—and that, once established, the residential provisions achieved a momentum that kept them alive, irrespective of the passing of the social problems they were supposed to meet.

The battle for ascertainment

5.8 Professionals' work is constrained and shaped by the economic and political background of the time. Professionals do not generally emphasize these background factors—it is not part of the professional image—for the essence of their expertise is to advance specialist *knowledge* as the prime source and justification of 'professionalism'. In defining the special school population at the 'clinical' level, the school medical officers and the educational psychologists have been the most involved. Their struggle for power over the ascertainment process was largely about who claimed the most expertise. However, it seems at least as likely that other, more fundamental, matters determined the outcome of the struggle and in the end robbed both contestants of the fruits of victory.

5.9 Despite Cyril Burt's early foray into the field (see Unit 9), educational psychologists only began to get established in local authorities in the immediate pre-war years, and their numbers remained very low until the seventies. Numbers were in fact so low that (all other considerations aside) it would have been hardly practical to consider them at the time of the 1944 Act, and indeed at the time of writing there is still no mention of them in either statute or Regulation.

5.10 The local authority medical officer had been written into Section 34 of the Education Act 1944, and any initial ambiguity about the necessity of medical examination to the process of ascertainment was cleared up soon afterwards in the advisory circular issued in 1947, which I discussed earlier in paragraph 3.8. This circular appears to have been widely interpreted as meaning that a child could only be ascertained as needing special education by a doctor completing the prescribed forms.

5.11 The struggle between the doctors and the psychologists for control over mental and behavioural problems in childhood already had a long history in England and Wales (Keir, 1952), and was to continue for some time yet. It involved not just the gatekeeping for special education in general (and ESN education in particular) but also the then more

prestigious field of child guidance. The struggle was public and bitter in the years when the plans for post-war expansion and reconstruction were being formulated. In 1943 the Association of Education Committees had stated that local authorities would not agree 'that every maladjustment, whether educational, social or emotional, necessarily requires the services of a medically qualified person', advancing instead the view that:

> the key person of the child guidance service is, in our view, the educational psychologist and the next key person is the social worker . . . we take the definite view that the organization of the child guidance service should rest with the educational psychologist.
>
> (quoted by Keir, 1952)

5.12 Blacker (1946) had offered a compromise, whereby there might be 'child guidance centres' under educational psychologists in the local education authorities, and 'child guidance clinics' under psychiatrists in the mental health service. 'Authoritative' medical opinion, however, was strongly against such competitive services. A circular was sent to local authorities, signed jointly by the medical director of the National Association for Mental Health and the medical secretary of the British Paediatric Association, dated June 1948, stating concern about practice which lay outside medical direction:

> The National Association for Mental Health which has been responsible for the introduction of child guidance into this country and the British Paediatric Association, are . . . rather disturbed by the organization in some areas whereby a psychologist without medical qualifications can be entrusted with the ascertainment, and even the diagnosis and treatment, of disorders in childhood.
>
> (quoted by Keir, 1952)

5.13 This stage of the power struggle had its last major public airing at an occasionally vituperative symposium on psychologists and psychiatrists in child guidance organized by the British Psychological Society in 1951. But, for the psychologists the battle was lost. The Underwood Report (Ministry of Education, 1955) treated 'maladjustment' as primarily a psychiatric problem (compare the legal definition, from the Regulations reprinted in Appendix 1 of Unit 1/2), and the medical nature of child guidance as a whole was subsequently confirmed in an advisory circular which recommended that child guidance clinics should form part of the general responsibility of principal school medical officers, and be under the medical direction of psychiatrists (Ministry of Education/ Ministry of Health, 1959).

5.14 Circulars have only advisory force, and for many reasons local practices could vary. Though there were exceptions, in most LEAs educational psychologists had to submit to the medical yoke in all but their advisory roles. They complained bitterly about the educational competence of the school medical officers. For example:

> . . . a not uncommon pattern is that of a backward child being referred for ascertainment and a lengthy interview and examination by a school medical officer ending, in eight cases out of ten, in a brief one-line report to the school that the child is educationally subnormal (already known) but that he is not sufficiently handicapped mentally for placement in a special school . . . When challenged or encouraged to provide more information for the sake of the child and the school, the school medical officer is modest enough to indicate that his role is simply one of 'ascertainment'.
>
> (Association of Educational Psychologists, 1965)

5.15 Psychologists remained, however, fairly impotent, and the doctors could afford to be condescending, to the point of insult:

> If he wishes, the doctor may arrange for a psychologist to carry out the intelligence tests, but without in the least wishing to disparage psychologists it is necessary to point out that there is an important risk in doing this. The tests, in addition to their primary value in measuring intelligence, have an important secondary value; the child's behaviour under test, his response to the test situation, his approach to the tests and his reaction to success or failure can, to the skilled examiner, be little less illuminating than the tests themselves and may give the clue to various anomalies which appear in the test results. It is, therefore, important that the person who is to make the summing up of the assessment as a whole should have himself observed the child under test and should not rely on second-hand information.
>
> (Kershaw, 1966)

5.16 One reason for this continuing impotence was that there were still relatively few educational psychologists in local authority service. In 1965 only 57 per cent of LEAs had services fully staffed to the standards of the time, while 12 LEAs had no educational psychologists at all (DES, 1968). In the sixties, a local authority quite often had an educational psychologist for two or three years, then was without one altogether for a year or so until another came along. There had as yet emerged no national will to generate enough educational psychologists to meet the needs of special school placement, and many of those who did enter the profession left, highly discontented, to work in more satisfying areas. The field was left by default to the much larger and more widely established profession of medicine, and where psychologist and medical officer did coexist it was often in barely concealed acrimony.

5.17 There was little change on this front in the first 20 years after the 1944 Act, but over the next decade there was a major shift in positions. This might be construed as the rout of the medical officers in special education and the psychiatrists in child guidance. But it was not necessarily a victory of the educational psychologists over the doctors. Rather it might be thought of as the unlooked for by-product at local level of quite separate national developments.

5.18 The first of these developments was the result of the general growth of all the 'new professions', including educational psychology, from the late sixties onwards. The numbers of educational psychologists in post grew rapidly. The effect of this at local authority level was compounded by two other factors. Firstly, the cutback in teacher-training closed off what had been a major escape-route for dissatisfied psychologists looking to get out of LEA practice. Secondly, the reorganization of local government, with its amalgamation of smaller LEAs, increased the viability of this tiny profession at local authority level. Now there were enough of them in each LEA not only to maintain a continuous presence that could be potentially written into routine ascertainment procedures, but even to provide a small 'career structure' that might further tempt discontents not to leave the field altogether.

5.19 A second important change concerned the position of the medical officers. The medical officers of health had been highly prestigious local government officers, and 'the doctor' had been something of a guru in society:

> . . . he enjoys, whether he deserves it or not, a great deal of public confidence which has its origins in the high ethical standards and long history of his profession. In spite of the relative mechanization and dehumanization of medicine which has occurred, this faith on the part of the sick public does not decrease for they have everything to gain in peace of mind by having faith in someone. The mature family doctor is in many communities still regarded as a man of learning and his judgement on questions outside his immediate province is often taken as seriously as that of the parson whom he has to some extent supplanted as family counsellor in this generation. For these reasons the medical man is often tempted to think he is as omniscient as his patients wish he were and at times inclined to be human on occasions when he should be scientific.
>
> (Kennedy, 1951)

5.20 Local government was certainly one community where people had great faith in doctors, particularly where children were concerned. But the reorganization of the national health service in 1974 removed doctors altogether from the local authorities and placed them in the new area and district health services—among many of their own kind. The doctors left behind them an immediate power vacuum, which many in the local authorities (and not just educational psychologists) were all too eager to fill. If the doctors left any legacy, it was an image of professionalism in which 'doctor' was sought out, looked up to and heeded, even in areas outside immediate professional competence.

5.21 In the health service itself the medical officers have fared badly. The NHS is dominated by big-hospital medicine, which is in turn dominated clinically by the consultant specialists. In child health the paediatric assessment movement has vigorously advanced the cause of paediatric assessment centres where an all-round, multi-disciplinary evaluation can be made of children's needs and development. Those who were once principal school medical officers have been absorbed as specialists in community medicine (child health)—'consultant equivalents', though not in fact consultants since their role is

administrative, not clinical. The medical officers who work with the special schools are administratively, but not clinically, responsible to these community specialists, and their highest rank (senior clinical medical officer) is not a consultant rank. They have redubbed themselves 'community paediatricians', yet in the eyes of many in the health service they fulfil a redundant role, competing with the powerful, hospital-based paediatric assessment units and not fitting easily into the general structure of the medical profession. Many of them are women part-timers, a singularly vulnerable employment group in any context.

5.22 In the latter part of the seventies, then, the medical officers not only lost their power-base in the local authorities themselves, they have also found enough problems in the health authorities, without sharing the additional stresses of struggles outside. As the educational psychologists have entrenched themselves in the ascertainment process, so the very existence of the community paediatricians has appeared increasingly tenuous.

5.23 A third reason for the rout of medicine is that psychiatry (and child psychiatry in particular) has not had a very high status in medicine in this country over recent years. Bright, ambitious young doctors have set their sights upon surgery and other high-esteem sectors, leaving psychiatry for the perhaps less high-flying. In the child guidance clinics the number of educational psychologists has soared, while the number of psychiatrists has lagged behind. The psychologists have been able to carve out new areas of practice with troublesome children in altogether new institutions (e.g. school exclusion units), quite free from the immediate overview of the psychiatrists. The same has been true for many clinical psychologists in the psychiatric hospitals, especially in the out-patient treatment of neurotic cases. The child guidance clinic could now be conceived of only as a 'network' (DES/DHSS, 1974), a loose federation of provisions—medical, educational and social—with the psychiatrist no longer a director but instead a member of the multi-disciplinary team.

5.24 These three factors have not been put forward either to suggest the triumph of right over wrong, or to deny that 'progress' may indeed have been made alongside organizational change. But if there has indeed been an improvement in our understanding of how to meet children's needs, and in our provisions, the former did not necessarily lead logically to the latter. There was conflict—sometimes bitter struggle at a local level—and progress (if it came) only came about as a by-product of wider issues. National pressure and national reorganization, often directed towards quite different ends, disrupted certain patterns or balances at local level. Local practice then shifted to accommodate these changes, and in doing so made certain reinterpretations at local level to meet its own needs. The new interpretations were not necessarily the only possible ones, nor the most rational, nor need they have been altogether in the best possible interests of the children whose needs avowedly call the practice into being.

6 *The struggle continues*

6.1 New laws and new advice may sweep away, or at least obscure, the practices and conflicts of previous years, but they cannot ensure that unforeseen pressures will not influence the nature of provision. For example, in the conflict between doctors and educationalists, the long-term strategic advantage might shift again, at least in areas in which psychiatrists regard themselves as having a proper interest. Addressing clinical psychologists within the health service, Feldman (1981) stated the source of future collision in the terms below. What he describes is equally relevant to educationalists, special educators and social workers in the local government service who are still celebrating their recent liberation from 'psychiatric domination'.

> There is reason to believe . . . that the present relative acquiescence of psychiatrists in the expanding role of clinical psychology may be a temporary phenomenon, with the demarcation issue being far from settled in our favour. A look at the number of students training in British medical schools helps to support this note of caution: several new medical schools have opened recently,

> the existing schools have increased their intake sharply and the total output will reach nearly 4,000 by the early 1980s (a few years ago it was only 2,500). The BMA is already making warning noises about 'medical unemployment', their anxiety enhanced by the reduced opportunities in the USA and Canada. Medical output is high in most of the EEC countries, so that opportunities in Europe are unlikely to mop up the increased output of British doctors. So far as academically measured quality is concerned, the A level grades currently required by medical schools are easily the highest of any of the science-based disciplines, at least three Bs . . . If we project forward about ten years we can envisage a rapid filling up, first of vacancies in the more popular medical areas (of which, it should be noted, general practice is now one), and then of the less popular ones (geriatrics, psychiatry, perhaps even mental handicap). The large number of overseas-trained doctors in junior psychiatric posts will be replaced by British-trained doctors of high intellectual calibre, committed to the search for consultant posts in this country. Will they be content with the 'organic' area of psychological problems? . . . my prediction is that psychiatry will make a real attempt to roll back the considerable professional advances made by clinical psychology in the past decade.
>
> (Feldman, 1981)

6.2 As in clinical psychology, so perhaps too in special education. This is not to suggest that it may be possible to 'put the clock back'; the days of the school medical officers are almost certainly numbered because of their anomalous position within the health service. It does mean, however, that special educators, educational psychologists and educational administrators will have the benefits and problems of contact with a new breed of doctors (in otology, ophthalmology, orthopaedics and paediatrics, as well as in psychiatry). To protect their careers these doctors may need to fight to keep special education within the province of medicine.

6.3 In shaking off their old medical masters (along with the protection that they afforded), special educators and psychologists did not necessarily achieve the apparently independent 'professionalism' of the doctors that many had learned to covet. Increasingly they had to come to terms with a new set of masters—the growing group of local authority administrators and advisors. As was the case with the medical officers, the formal situation is one of a 'team'. The administrators are, by virtue of their position, central to the organization of the system as a whole, while by a similar token the advisors are wise and accomplished in the field of special education (being for the most part ex-teachers, head teachers or educational psychologists). If for no other reason than their central positions in the LEAs—and the endemic regard for status within bureaucratic organizations—advisors and administrators have a fair amount of local power over the lives of both pupils and lower-level professionals.

6.4 Many factors suggest that this situation will cause trouble and conflict in the years to come. Some of these factors are common to all bureaucratic hierarchies, and will occur in special education no less than in any other. One source of stress, however, is particularly worth noting—the manifestation within special education of a problem inherent in most new professional hierarchies, i.e. the lack of genuine knowledge to justify claims to higher-level expertise within the system. In the new order of special education, the newest of the new boys are the advisors and administrators. This means that those with the greatest formal power are also those with the least specifiable expertise. They may well have had great practical experience and considerable personal skill and knowledge at their *previous* levels of operation (e.g. as teachers, head teachers or educational psychologists), though some of course will not. But 'administering' (and 'advising') is a different type of job, requiring its own blends of personal qualities, and its own (as yet unformulated) areas of communicable knowledge. It is no discredit to those who will hold such positions to suggest that the structure being created will make demands that many of them will at times be unable to meet.

6.5 New professional groups quickly form their own identities and interests which will inevitably conflict with those other groups whose interests overlap. Thus advisors in LEAs may wish to control the curriculum in special schools. The curriculum is something that a small and newly established professional group might wish to be closely identified with, especially at a time of local government cut-backs. It may reasonably be argued that the curriculum is too important to be left to individual head teachers, or too broadly

pedagogic to be the concern solely of educational psychologists, but the outcome of such an argument is not necessarily that the curriculum is therefore the domain of the advisors. If it *is* so argued, then what should be a serious matter of public concern and educational debate is deflected into an 'interdisciplinary' demarcation dispute, in which understandable personal anxieties about job-security conflict with the public duty which the jobs were supposedly created to fulfil. In resolving this conflict, the working lives of the professionals involved will probably be more telling than the interests of the children and their parents as *they* might express them.

6.6 Other new pressures that might come from within the system itself are possible shifts in the knowledge and ideas of various professional groups. Educational psychology, for example, at least at local authority level, has for a long time been concerned largely with problems *within* the child, and difficulties have been defined, both by teachers and by psychologists, very much as *the child's* difficulties ('learning difficulties', 'behaviour difficulties', etc.). In all areas of psychology the emphasis is now shifting, and people are insisting increasingly that the acts and attributes of the individual are only examinable, and treatable, if understood and dealt with as part of a wider social context (McPherson and Sutton, 1981). If this 'new wave' grows in influence among special educationalists, then not only will it markedly conflict with presently established professional boundaries, it will also call into question the basis of present thinking about what constitutes special education. It may become difficult to consider 'children with learning difficulties' separately from the problems of schools.

6.7 And what about the parents? The 1980 White Paper confidently predicted that 'parental influence will grow as more parents become school governors' (paragraph 18). Perhaps. It also proposed to deny them certain information about their children.

> The government agrees with the widely-held view that it would be wrong to require full disclosure to parents of the professional reports lying behind the record. Professional reports must remain confidential if they are to give the LEA fully and frankly the information it needs in assessing and meeting special educational needs.
>
> (DES, 1980, paragraph 57)

Again one must ask, 'widely held' by whom? By the majority of parents, or by the professionals whom they so outnumber? Over the last couple of decades handicapped people and their families in the US have resorted increasingly to the courts and to politics to wrest from the professional bureaucracies a say in their destiny (see Hooker, 1976). Our own judicial and political systems differ somewhat from those in the US, but the experience of the child care system in this country has already shown that this new kind of 'parental participation' (i.e. litigation) is not impossible here, especially if (as has happened also in the US) some of the professionals begin to 'change sides' and support the parents rather than authority. It soon then becomes public knowledge that, whatever else, professional information can be much less than 'full and frank', and that the old, familiar problems arising from arbitrary power without public accountability may result in widespread abuse (see, for example, Taylor, Lacey and Bracken, 1979). A great deal has been invested in the idea of parental participation in special education: it might well be that parents will not be content just to follow the 'multidisciplinary team' as a kind of supporters' club, but will (as they have in the US) field their own team and insist that the professionals give them a game, instead of only ever playing against each other.

6.8 At least one familiar problem is bound to recur—shortage of resources. Indeed, the stringencies of the eighties are already biting at local level, and may have greater effect upon practice than will ideals such as integration. One way in which these cuts *might* operate has been described in the forebodings of a local authority practitioner, in a letter to *The Times Educational Supplement:*

> I am already aware of a trend developing at grass roots level, which totally negates Warnock.
>
> Local authority spending cuts are now paring school staffing levels to the bone. Without the so-called luxuries of floating teachers, extra ancillaries and visiting specialists, the ability of schools to cater for the child with special needs is being significantly impaired. Thus one is faced with the invidious

> choice between leaving a child in the ordinary school, with little if any chance of specialist help, or transferring him to the relative bounty of the special school.
>
> Increasingly, caring head teachers and informed parents, while being fully aware of the ensuing disadvantage of segregation, restricted curriculum and social stigma, are opting for the latter; while special schools, concerned too about falling rolls, are eager to accept all those in need. As government cuts bite harder, the trend towards special schools is likely to grow, however much educationalists believe in the theory of integration.
>
> (Lorenz, 1980)

Alternatively, integration might actually save money in the long run. As Lukes's article indicates (Reading 5.2), there is probably an unavoidable clash between educational gains and financial costs.

7 *Conclusion: law and order*

7.1 The phrase 'law and order' is increasingly used as if law goes inevitably with order, and vice versa. We have laws to define special education (more precisely, at the moment, special educational treatment) and the rights and duties associated with it. We also have a variety of pressures to establish new laws, incorporating new principles (e.g. integration), new groups (e.g. educational psychologists) and so on. The word 'order' implies, among other things, a state in which all components or elements are arranged logically, comprehensively or naturally, an established or customary method, and a peaceful or harmonious condition in society. The law seeks to relate to order in all of these senses, but both in its creation and its implementation it finds itself in circumstances very much to the contrary.

7.2 We should not fight shy of recognizing that conflicts are features of all human systems. Thus the interests of the handicapped may conflict with those of the non-handicapped, the interests of the individual child with those of the class. Children conflict with teachers, teachers with heads, and both with the 'outsiders' (medical officers, advisors, educational psychologists and administrators). All of these may conflict with parents, and everybody with local politicians. Local government conflicts with central government, and the DES with the Exchequer. And so on and so on, in an endless series of groupings and permutations. Of course the result is neither all-out war nor total anarchy. The system works by means of tacitly negotiated settlements, armed truces, and good, old-fashioned compromise. But it would be a strange view of human affairs that held it possible to paper over all of the cracks all of the time. Sometimes groups come into collision, and there are winners and losers.

7.3 The law is created and implemented in a political world, and special education law is no different in this respect from any other. As in all politics, the underlying realities are sometimes apparent, but more often obscured from outside view. The ideas and ideals whereby the system is publicly expressed are not necessarily hollow shams, but it is none the less worth considering that they belong to the ideas and practices of a particular time, and come to prominence for social, political and economic reasons rather than necessarily for their intrinsic value. People may still adhere to them, and try to translate them into humane and effective practice. It is important to look out for the reality behind the rhetoric—without being cynical. One must be very critical, however, of the outward forms and the justification of the decision-making that links the law to practice, be it at the humble level of the 'discovery' of an individual child's special need or at the grander level where the desire for widespread changes in practice are expressed in pressures for a change in the law. Look under the surface to see if things are really being done in a systematic and orderly way, and when things happen the way that they do, be on guard for the power that made them do so.

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Appendix

Education Act 1944 (ss. 33 and 34)

Primary and Secondary Education of pupils requiring Special Educational Treatment.

Education of pupils requiring special educational treatment.

33.—(1) The Minister shall make regulations defining the several categories of pupils requiring special educational treatment and making provision as to the special methods appropriate for the education of pupils of each category.

(2) The arrangements made by a local education authority for the special educational treatment of pupils of any such category shall, so far as is practicable, provide for the education of pupils in whose case the disability is serious in special schools appropriate for that category, but where that is impracticable, or where the disability is not serious, the arrangements may provide for the giving of such education in any school maintained or assisted by the local education authority.

(3) The Minister may by regulations make provision as to the requirements to be complied with by any school as a condition of approval of the school as a special school, and as to the withdrawal of approval from any school which fails to comply with requirements so prescribed, and, notwithstanding that the provisions of this Act requiring local education authorities to have regard to the need for securing that primary and secondary education are provided in separate schools do not apply with respect to special schools, such regulations may impose requirements as to the organisation of any special school as a primary school or as a secondary school.

(4) The regulations made under this section with respect to special schools shall be such as to secure that, so far as practicable,

every pupil in attendance at any such school will attend religious worship and religious instruction or will be withdrawn from attendance at such worship or instruction in accordance with the wishes of his parent.

Duty of local education authorities to ascertain what children require special educational treatment.

34.—(1) It shall be the duty of every local education authority to ascertain what children in their area require special educational treatment; and for the purpose of fulfilling that duty any officer of a local education authority authorised in that behalf by the authority may by notice in writing served upon the parent of any child who has attained the age of two years require him to submit the child for examination by a medical officer of the authority for advice as to whether the child is suffering from any disability of mind or body and as to the nature and extent of any such disability; and if a parent upon whom such a notice is served fails without reasonable excuse to comply with the requirements thereof, he shall be liable on summary conviction to a fine not exceeding five pounds.

(2) If the parent of any child who has attained the age of two years requests the local education authority for the area to cause the child to be so medically examined as aforesaid, the authority shall comply with the request unless in their opinion the request is unreasonable.

(3) Before any child is so medically examined as aforesaid, the authority shall cause notice to be given to the parent of the time and place at which the examination will be held, and the parent shall be entitled to be present at the examination if he so desires.

(4) If, after considering the advice given with respect to any child by a medical officer in consequence of any such medical examination as aforesaid and any reports or information which the local education authority are able to obtain from teachers or other persons with respect to the ability and aptitude of the child, the authority decide that the child requires special educational treatment, they shall give to the parent notice of their decision and shall provide such treatment for the child.

(5) The advice given with respect to any child by a medical officer in consequence of any such medical examination as aforesaid shall be communicated to the parent of the child and to the local education authority; and the medical officer by whom the examination was made shall, if required by the parent or by the authority so to do, issue to the authority and to the parent a certificate in the prescribed form showing whether the child is suffering from any such disability as aforesaid and, if so, the nature and extent thereof :

Provided that a local education authority shall not require the issue of such a certificate in respect of any child unless the certificate is, in their opinion, necessary for the purpose of securing the attendance of the child at a special school in accordance with the provisions of this Act relating to compulsory attendance at primary and secondary schools.

(6) Any certificate issued under the last foregoing subsection may be cancelled by the Minister or by a medical officer of the local education authority; and upon the cancellation of such a certificate the local education authority shall cease to provide special educational treatment for the child with respect to whom the certificate was issued and shall notify the parent accordingly.

The course

This text forms part of an Open University course, E241 *Special Needs in Education*. The complete list of units in the course appears below.

Unit 1/2 Special biographies	Unit 10 National perspectives
Unit 3 Family views	Unit 11 Biology and handicap
Unit 4 Education for adult life?	Unit 12 Psychology and special education
Unit 5/6 A special curriculum?	Unit 13 Handicap is social
Unit 7 The professionals	Unit 14 Eradicating handicap
Unit 8 The powers that be	Unit 15 Research in special education
Unit 9 Origins	Unit 16 An alternative system: a special imagination

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